



Court of Justice of the European Union

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Judgment in Case C-268/13

Elena Petru v Casa Județeană de Asigurări de Sănătate Sibiu and Casa Națională de Asigurări de Sănătate

Press and Information

The reimbursement of medical expenses incurred in another Member State cannot be refused where a lack of basic medical supplies and infrastructure makes it impossible for the insured person to receive hospital treatment in good time in his Member State of residence

The question whether it is impossible must be assessed by reference to all the hospital establishments that are capable of providing the treatment in the Member State in question and to the period within which the treatment could be received in good time

Under EU law,¹ a worker may be authorised to travel to another Member State to receive treatment appropriate to his condition. In that way, he can receive the services needed in the same way as if he were insured under the health insurance scheme of that Member State. It is his Member State of residence, however, that reimburses the expenses incurred. That Member State may not refuse authorisation where the treatment required is among the benefits normally provided for under its legislation and where, given the worker's state of health and the probable course of his disease, the treatment cannot be provided in good time in his Member State.

Ms Petru, a Romanian national, suffers from a serious cardiovascular disease and the deterioration in her condition required her to be admitted to a specialist establishment in Timișoara (Romania). The medical examinations that she underwent there led to the decision to proceed with open heart surgery. During her time in that establishment, Ms Petru formed the opinion that there was a lack of medication and basic medical supplies, and that the number of beds was insufficient. In view, also, of the complexity of the surgical procedure that she would have to undergo, Ms Petru decided to have her operation in Germany and applied to her health insurance authority to cover the costs of that surgery.

The application was refused on the grounds that there was no indication in the general practitioner's report that the healthcare service sought could not be provided in Romania within a reasonable length of time. The cost of the surgery amounted in total to approximately €18 000, and Ms Petru applied to the Romanian authorities for reimbursement of that amount.

The Tribunalul Sibiu (Regional Court, Sibiu, Romania), which is hearing the case, asks the Court of Justice to determine whether a situation in which there is a lack of medicines and basic medical supplies and infrastructure can be equated with a situation in which the necessary medical treatment cannot be provided in the Member State of residence, with the result that a national of that Member State, if he so requests, must be granted authorisation to receive that treatment in another Member State, with the costs being borne by the national health system of the Member State of residence.

In its judgment today, the Court states that EU law imposes two conditions which, if both are satisfied, render mandatory the grant by the competent institution of prior authorisation for the reimbursement of medical expenses: (i) the treatment in question must be among the benefits provided for by the legislation on whose territory the insured person resides and (ii) it must be

¹ Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, as amended and updated by Council Regulation (EC) No 118/97 of 2 December 1996 (OJ 1997 L 28, p. 1).

impossible for the treatment that the insured person plans to receive in another Member State to be obtained within the time normally necessary for receiving that treatment in the Member State of residence, account being taken of his current state of health and the probable course of his disease.

As regards the second condition, the Court held that the authorisation required may not be refused if the same or equally effective treatment cannot be received in good time in the Member State of residence of the person concerned. In order to determine whether that is the case, the competent institution must have regard to all the circumstances of each specific case. Accordingly, a lack of medicine and basic medical supplies and infrastructure can make it impossible for the same or equally effective treatment to be provided in good time in the Member State of residence.

The Court adds that the question whether that is indeed impossible must be determined, first, by reference to all the hospital establishments of the Member State of residence that are capable of providing the treatment in question and, second, by reference to the period within which the treatment could be received in good time.

As the Court observes, the Romanian Government pointed out that Ms Petru had the right to approach other medical establishments in Romania that had the means necessary to carry out the treatment that she needed. Furthermore, the general practitioner's report indicates that the treatment had to be carried out within a period of three months. It will be for the referring court to determine whether the necessary treatment could have been carried out within three months in another hospital establishment in Romania.

The Court concludes that **authorisation of the reimbursement of medical expenses incurred in another Member State cannot be refused where it is because of a lack of medication and basic medical supplies and infrastructure that the hospital treatment concerned cannot be provided in good time in the insured person's Member State of residence. The question whether that is impossible must be determined by reference to all the hospital establishments in that Member State that are capable of providing the treatment in question and by reference to the period within which the treatment could be received in good time.**

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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